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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,130	10/05/2005	Michel Bardel	41052/321146	6354
23370	7590	10/04/2010		
JOHN S. PRATT, ESQ KILPATRICK STOCKTON, LLP 1100 PEACHTREE STREET SUITE 2800 ATLANTA, GA 30309				
EXAMINER				
LOUIS, LATOYA M				
ART UNIT		PAPER NUMBER		
3771				
MAIL DATE		DELIVERY MODE		
10/04/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/552,130

**Applicant(s)**

BARDEL, MICHEL

**Examiner**

LaToya Louis

**Art Unit**

3771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 August 2010.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 4 and 6-11 is/are pending in the application.  
4a) Of the above claim(s) 8-10 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1, 4, 6, 7 and 11 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 05 October 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/SB06)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notes of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. This office action is responsive to the amendment filed 8/2/2010. As directed by the amendment, claims 1 and 6 have been amended, claim 3 has been cancelled, and claim 11 has been added. Thus claims 1, 4, and 6-11 are currently pending.

***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/2/2010 has been entered.

3.

***Drawings***

4. The drawings are objected to under 37 CFR 1.83(a) because they fail to show test button 16 as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be

renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 1, 4, 6, 7, and 11 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Regarding claims 1 and 6, the limitation "wherein the display device is configured to be repeatedly mounted to and released from the shield by hand without the use of any tools" is not supported by the original specification as filed. It is noted in Applicant's Response to Interview Summary that applicant pointed to page 5 lines 22-26 for support. However, this passage states that the display device may be removably mounted from the shield so that they can be used

independently but does not disclose repeatedly mounting and demounting the shield by hand without the use of tools as newly claimed.

Claims 4, 7, and 11 are rejected for their dependency on a rejected claim.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1, 4, 6, 7, and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the phrases “such as” and “in particular” render the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Regarding claim 6, the phrase “in particular” renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d). In addition, the limitation “the feed pipe” lacks antecedent basis.

Claims 4, 7 and 11 are rejected for their dependency on a rejected claim.

### ***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1, 4, 6, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dubruille et al. (5,630,412) in view of Tsook (5,251,333) and in view of Kennedy (6,714,141 B2).

Regarding claim 1, Dubruille teaches from figs. 1 and 2 a protective shield (24) for protecting the eyes against smoke and adapted to be applied to the upper portion of the face of a user around the eyes, and including locking means (28) suitable for temporarily fixing it to a face mask such as a mask for supplying breathing gas (col. 1 lines 5-13) but does not specifically disclose that the shield comprises a display device adapted to enable a user whose face is covered by the shield to view information in the user's field of view, said display device being placed outside the shield when the shield is covering the face of the user and further comprising connection means enabling images to be supplied to said display device, said information serving in particular to provide assistance in flying, wherein the display device is configured to be repeatedly mounted to and released from the shield by hand without the use of any tools. However, Tsook teaches in figs. 1 and 2b that the shield (22) comprises a display device (20) adapted to enable a user whose face is covered by the shield to view information in the user's field of view (fig. 2) said display device being placed outside the shield when the shield is covering the face of the user (As shown, the display device is outside of the shield) and further comprising connection means (12) enabling images to be supplied to said display device, said information serving in particular to provide assistance in flying (col. 2 lines 1-3) wherein the display device is configured to be repeatedly mounted to and released from the shield (col. 1 lines 38-40 disclose that the display device is removably mounted on the visor).

The modified Dubruille discloses that the display device is removably mounted (col. 1 lines 38-40) but does not specifically disclose that the device can be mounted and demounted by hand without the use of any tools. However, Kennedy teaches from fig. 12 that the display device is configured to be repeatedly mounted to and released from the shield by hand without the use of any tools (col. 13 lines 9-12 disclose that the display device is attachable to the face shield by magnetism and thus is inherently capable of being removed by hand). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the display device of the modified Dubruille with the magnetic coupling means as taught by Kennedy to provide for less obstruction of the user's vision when the shield is on but the display device is not in use, to allow for ease of replacing a malfunctioning device, and to enable increased versatility of the mask.

Regarding claim 4, the modified Dubruille teaches that the display device is a device for projecting a light signal onto the retina (figs. 2 of Tsook).

Regarding claim 6, the modified Dubruille teaches from fig. 1 of Tsook that the connection means (12) enables images to be supplied to said display device (20) via the feed pipe of said mask (As shown, the connection means is provided to the display device by being wrapped around the feed pipe of the mask).

Regarding claim 7, the modified Dubruille teaches from fig. 1 of Tsook connection means (i.e. conductor 12 or coupling means 14) adapted to transmit information from the mask to the display device (As shown, information is transmitted via the mask to the display device).

11. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dubruille in view of Tsook and in view of Kennedy, as applied to claim 1 above, and further in view of Sanchez (5,197,661).

Regarding claim 11, Dubruille discloses a storage box for storing the mask (col. 4 lines 30-42) but does not specifically disclose that the box comprises a light transmission system adapted to convey a light signal from the display device out from the storage box thereby constituting a light signal that is visible to a user without it being necessary for the user to extract the shield from the storage box. However, Sanchez teaches in figs. 1 and 6 a storage box (10) adapted to receive the shield wherein the storage box comprises a light transmission system (16, 24) adapted to convey a light signal from the display device out from the storage box (col. 2 lines 16-24, 5-55 discloses a light transmitting structure enabling a user to see what is inside and thus also enabling light to be transmitted outside. Thus any light coming from the display device can also be transmitted outside of the box through the light transmitting means) thereby constituting a light signal that is visible to a user without it being necessary for the user to extract the shield from the storage box (col. 1 lines 25-28 disclose that an item can be seen within the container without having to open the container). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the mask of Smith with the storage box as taught by Sanchez to enable quick and easier location of the mask in storage as taught by Sanchez in col.1 lines 29-34.



12. Claims 1 and 4 are also rejected under 35 U.S.C. 103(a) as being unpatentable over Smith (6,297,749) in view of Kennedy.

Regarding claims 1 and 4, Smith discloses a protective shield (14) for protecting the eyes against smoke to be applied to the upper portion of the face of a user around the eyes (column 1, lines 49-52), including a locking means (36) for temporarily fixing it to a face mask (26) for supplying breathing gas to an aircraft flight crew member (fig. 1) the shield comprises a display device (20, 22), adapted to enable a user whose face is covered by the shield to view information in the user's field of view (column 2, lines 34-38), the display device comprising a connection means (30) enabling images to be supplied to the display device (column 2, line 52-53) but does not specifically disclose that the display device is configured to be repeatedly mounted to and released from the shield by hand without the use of any tools. However, Kennedy teaches from fig. 12 that the display device is configured to be repeatedly mounted to and released from the shield by hand without the use of any tools (col. 13 lines 9-12 disclose that the display device is attachable to the face shield by magnetism and thus is inherently capable of being removed by hand). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the display device of Smith with the magnetic coupling means as taught by Kennedy to provide for less obstruction of the user's vision when the shield is on but the display device is not in use, to allow for ease of replacing a malfunctioning device, and to enable increased versatility of the mask.

13. Claim 11 is also rejected under 35 U.S.C. 103(a) as being unpatentable over Smith in view of Kennedy, as applied to claim 1 above, and further in view of Sanchez.

Regarding claim 11, Smith discloses that the mask can be rapidly pulled from a storage location (col. 4 lines 1-4) but does not specifically disclose a storage box adapted to receive the shield wherein the storage box comprises a light transmission system adapted to convey a light signal from the display device out from the storage box thereby constituting a light signal that is visible to a user without it being necessary for the user to extract the shield from the storage box. However, Sanchez teaches in figs. 1 and 6 a storage box (10) adapted to receive the shield wherein the storage box comprises a light transmission system (16, 24) adapted to convey a light signal from the display device out from the storage box (col. 2 lines 16-24, 5-55 discloses a light transmitting structure enabling a user to see what is inside and thus also enabling light to be transmitted outside. Thus any light coming from the display device can also be transmitted outside of the box through the light transmitting means) thereby constituting a light signal that is visible to a user without it being necessary for the user to extract the shield from the storage box (col. 1 lines 25-28 disclose that an item can be seen within the container without having to open the container). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the mask of Smith with the storage box as taught by Sanchez to enable quick and easier location of the mask in storage as taught by Sanchez in col.1 lines 29-34.

14. Claims 6 and 7 are also rejected under 35 U.S.C. 103(a) as being unpatentable over Smith in view of Kennedy and in view of Keller (6,675,800).

Regarding claims 6 and 7, the modified Smith teaches the limitations as claimed (see the rejection of claim 1 above) except for images to be supplied to said display device via the feed pipe of said mask. Keller teaches a shield with a display device wherein the connection means (33) are connected via a breathing gas feed hose (14) (fig. 1). It would have been obvious to one

of ordinary skill in the art to provide the mask of Smith with a connection means and feed pipe as taught by Keller in order to provide the advantage of a more compact device.

***Response to Arguments***

15. Applicant's arguments with respect to claims 1-11 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Wells (5,003,300) discloses a head mounted video display attached to a lens with a clip which is removable by hand.

Einav (2004/0125597) discloses a box with light transmission means.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LaToya Louis whose telephone number is (571) 270-5337. The examiner can normally be reached on Monday-Friday, 8:30am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on 571-272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/LaToya Louis/  
Examiner, Art Unit 3771  
9/27/2010

/Patricia Bianco/  
Supervisory Patent Examiner, Art Unit 3772